

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

In re: Polina P. Agova

) Chapter 13

)

) No. 22-13914

)

Debtor(s)

) Judge Deborah L. Thorne

NOTICE OF MOTION

TO: See attached list

PLEASE TAKE NOTICE that on January 18, 2023, at 9:30 am, I will appear before the Honorable Deborah L. Thorne, or any judge sitting in that judge's place, **either** in courtroom 682 of the Everett McKinley Dirksen United States Courthouse, 219 S. Dearborn Street, Chicago, IL 60604, **or** electronically as described below, and present the motion of Anita Shaw-Bastian and Thomas L. Bastian [to/for] Modify the Automatic Stay, a copy of which is attached.

All parties in interest, including the movant, may appear for the presentment of the motion either in person or electronically using Zoom for Government.

You may appear electronically by video or by telephone.

To appear by video, use this link: <https://www.zoomgov.com/>. Then enter the meeting ID and passcode.

To appear by telephone, call Zoom for Government at 1-669-254-5252 or 1-646-828-7666. Then enter the meeting ID and passcode.

Meeting ID and passcode. The meeting ID for this hearing is 160 9362 1728, and the passcode is _____. The meeting ID and passcode can also be found on the judge's page on the court's web site.

If you object to this motion and want it called on the presentment date above, you must file a Notice of Objection no later than two (2) business days before that date. If a Notice of Objection is timely filed, the motion will be called on the presentment date. If no Notice of Objection is timely filed, the court may grant the motion in advance without calling it.

By: /s/ Daniel J. Winter

Law Offices of Daniel J Winter
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Wilmette, IL 60091
312-427-1613
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CERTIFICATE OF SERVICE

I, Daniel J. Winter, certify [if an attorney]/declare under penalty of perjury under the laws of the United States of America [if a non-attorney] that I served a copy of this notice and the attached motion on each entity shown on the attached list at the address shown and by the method indicated on the list on January 11, 2023, at 5:00 pm.

/s/Daniel J Winter

[Signature]

SERVICE LIST

Via ECF Only

Robert J. Adams
Robert J. Adams & Associates
540 W 35th Street #100
Chicago, IL 60616

Via ECF Only:

Office of the U.S. Trustee Region 11
219 S. Dearborn St
Rm 873
Chicago, IL 60604

Via U.S. Postal Service

Polina P. Agova
10139 Hartford Ct. GA
Schiller Park, IL 60176

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

IN RE:)	Case No. 22-13914
)	Judge Thorne
Polina P. Agova)	Chapter 13
	Debtor)	

MOTION FOR RELIEF FROM AUTOMATIC STAY

Anita Shaw Bastian and Thomas L. Bastian (“Movants”), as secured creditors herein, by and through their attorney, Daniel J. Winter, moves this Court pursuant to 11 USC § 362, for an Order granting relief from automatic stay. In support of this Motion, the Movants state as follows:

1. This Court has jurisdiction pursuant to 28 U.S.C. §1334 and Internal Operating Procedure 15(a) of the United States District Court for the Northern District of Illinois.
2. On December 1, 2022, Polina P. Agova (“Debtor”) filed a petition for bankruptcy relief under Chapter 13 of the U. S. Bankruptcy Code, the filing of which operates as a stay of any action against the Debtor (“Bankruptcy Petition”).
3. The Movants are creditors of the Debtor, who are secured by a security interest in the real property located at 10130 Caves Hwy in Cave Junction, Oregon 97523 (the “Property”) See attached Foreclosure Complaint, Statutory Warranty Deed, Trust Deed, Note. , Order of Default and Declaration, and Supplemental Judgment for Attorneys’ Fees as Group Exhibit A..
4. The Statutory Warranty Deed and Note were secured by the recording of the Trust Deed on or about May 1, 2020. The Trust Deed secured the performance of the obligations contained in the Deed and Note.
5. On July 26, 2022, the Judge in the Circuit Court of Josephine County, Oregon granted the Motion for Default Judgment against the Debtor. See Attached Exhibit B.

6. The Note required that the Debtor make certain payments, including several balloon payments, and the Debtor has failed to comply with the terms of the Note.
7. Therefore, the entire balance of the Note has been due and payable, and a Money Award has been entered in the amount of \$233,718.18, as of August 1, 2022. See attached Exhibit C.
8. On August 29, 2022, the Josephine County, Oregon, Court also awarded a Supplemental Judgment for Attorneys' fees in the amount of \$11,514.00 to the Movant. Exhibit D.
9. The Movant has not been provided with adequate protection for the Property.
10. The Debtor has failed to pay any real estate taxes since purchasing the property in 2020, and owes at least \$7074.00, through December, 2022.
11. Additionally, the Debtor has not provided proof of insurance for the subject Property.
12. The most recent Plan, Docket 23, filed on December 12, 2022, is not confirmable, and the Stay should be modified.
13. Paragraph 3.2 attempts to pay the Movant \$250,000.00 at 4.5 percent interest, however the plan contains a \$130,000.00 balloon payment in month 60.
14. The balloon payment to the Trustee makes the plan unconfirmable and unfeasible.
15. Further, the Debtor's Schedule I and J, and her testimony at the Section 341 hearing do not provide any support for even the initial monthly Plan payments.
16. Movant has not received any post-petition mortgage payments.
17. The Chapter 13 Plan is scheduled for Confirmation hearing on January 18, 2023.
18. The balance of the Note is due during the term of the Plan, by December 1, 2024.

19. The Property is also not necessary for an effective reorganization, as the Debtor does not live in the property, and there are no tenants, creating a negative cash flow.

20. While the Debtor listed the property as having a value of \$570,0.000 on her schedules, she has not indicated any pending contracts for sale of the property.

21. Movant will suffer irreparable harm if she is not permitted to proceed with foreclosure on the subject Property.

WHEREFORE, Anita Shaw-Bastian and Thomas L. Bastian, Movants, request that this Court enter an Order pursuant to 11 U.S.C. §362 modifying the automatic stay to permit Movant, its successors and/or assigns, to foreclose its security interest in certain real estate, with a common address of 10130 Caves Hwy in Cave Junction, Oregon 97523 in Oregon State Court; waiving Bankruptcy Rule 4001(a)(3), and for any other such relief as this Court deems just.

Respectfully submitted,
Anita Shaw-Bastian & Thomas Bastian

By: /s/ Daniel J. Winter

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